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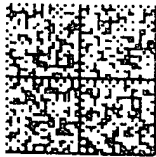
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# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,549	12/12/2001	Walid Najib Aboul-Hosn	9261.16756-CIP DIV	3304

7590 12/01/2004

Daniel D. Ryan  
RYAN KROMHOLZ & MAION, S.C.  
Milwaukee,, WI 53226

EXAMINER

MATTHEWS, WILLIAM H

ART UNIT PAPER NUMBER

3738

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED  
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TECHNOLOGY CENTER #4793

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 10/021,549	<b>Applicant(s)</b> ABOUL-HOSN ET AL.	
	<b>Examiner</b> William H. Matthews (Howie)	<b>Art Unit</b> 3738	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-12-01</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3738

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Runge US PN 5,688,245 in view of Sherts et al. US PN 5,947,896.

Runge discloses in figure 1 and lines 13-30 of col. 4 a system for preventing collapse of heart chambers comprising a pump and cannula. Runge lacks the express written disclosure of including a cradle. Sherts et al. teaches in figures 8,10, and 27 various cradles to support a heart during bypass surgery.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system disclosed by Runge by including a cradle as taught by Sherts et al. in order to support the heart during bypass surgery.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Matthews (Howie) whose telephone number is 703-305-0316. The examiner can normally be reached on Monday-Friday 10-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WHM  
November 22, 2004



CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700



**INFORMATION DISCLOSURE CITATION**  
(Use several sheets if necessary)

ATTY DOCKET NO.  
9261.16756-CIP DIV

SERIAL NO.  
Unknown

About-Hosn et al.

FILING  
Herewith

GROUP  
Unknown

12/12/01  
10/02/99  
PT  
U.S.  
J0835

**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
WDR	3,487,784	01/06/1970	Rafferty			
	3,626,947	12/14/1971	Sparks			
	3,995,617	12/7/1976	Watkins et al.			
	4,086,665	05/02/1978	Poirier			
	4,108,161	08/22/1978	Samuels et al.			
	4,118,606	10/10/1978	Poirier, et al.			
	4,173,981	11/13/1979	Mortensen			
	4,548,597	10/22/1985	Nelson			
	4,625,712	12/02/1986	Wampler			
	4,704,121	11/03/1987	Moise			
	4,753,221	06/28/1988	Kensey et al.			

**FOREIGN PATENT DOCUMENTS**

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
	WO89/10763	11/16/1989	PCT				
	0 445,783	09/11/1991	EP				
	2,037,622	1991	CA				
	0 478,635	04/08/1992	EP				
	0 629,412	12/21/1994	EP				

**OTHER DOCUMENTS** (Including Author, Title, Date, Pertinent Pages, Etc.)

	P.E. Allaire, H.C. Kim, E.H. Maslen, D.B. Olsen, and G.B. Bearnsen, "Prototype Continuous Flow Ventricular Assist Device Supported on Magnetic Bearings", Artificial Organs, Vol 20, No. 6, 1996 pgs 582-590, Blackwell Science, Inc., Boston

EXAMINER

WDR

DATE CONSIDERED

11/19/07

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

# INFORMATION DISCLOSURE CITATION

(Use several sheets if necessary)

ATTY DOCKET NO.  
9261.16756-CIP-IV

SERIAL NO.  
Unknown

About-Hosn et al.

FILING  
Herewith

GROUP  
Unknown

## U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
208	5,376,114	12/27/1994	Jarvick			
	5,449,342	09/12/1995	Hirsoe et al.			
	5,599,329	02/04/1997	Gabbay			
	5,647,358	07/15/1997	Vilasi			
	5,688,245	11/18/1997	Runge			
	5,746,709	05/05/1998	Rom et al.			
	5,718,678	02/17/1998	Fleming			
	5,755,784	05/26/1998	Jarvick			
	5,766,209	06/16/1998	Devonec			
	5,785,686	07/28/1998	Runge			
	5,827,220	10/27/1998	Runge			

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
	WO98/14225	04/09/1998	PCT				
	WO98/53864	12/03/1998	PCT				
✓	286,145	01/15/1971	RU				

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER

*[Signature]*

DATE CONSIDERED

11/19/04

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



<b>INFORMATION DISCLOSURE CITATION</b> <i>(Use several sheets if necessary)</i>				ATTY DOCKET NO. 9261.16756-CIP-IV		SERIAL NO. Unknown	
				Aboul-Hosn et al.			
				FILING Herewith		GROUP Unknown	

U.S. PATENT DOCUMENTS							
*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE	
2/18	4,769,031	09/06/1988	McGough, et al.				
	4,817,586	04/04/1989	Wampler				
	4,846,152	07/11/1989	Wampler et al.				
	4,898,518	02/06/1990	Hubbard et al.				
	4,944,722	07/31/1990	Carriker et al.				
	4,955,856	09/11/1990	Phillips				
	4,985,014	01/15/1991	Orejola				
	5,019,102	05/28/1991	Hoene				
	5,061,256	10/29/1991	Wampler				
	5,112,349	05/12/1992	Summers				
	5,295,958	03/22/1994	Shturman				

FOREIGN PATENT DOCUMENTS							
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
✓	0 659,443	06/28/1995	EP				
	WO96/18358	06/20/1996	PCT				
	WO97/02850	01/30/1997	PCT				
	0 768,091	04/16/1997	EP				
	WO97/37698	10/16/1997	PCT				

OTHER DOCUMENTS <i>(Including Author, Title, Date, Pertinent Pages, Etc.)</i>		

EXAMINER 	DATE CONSIDERED 11/19/04
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<b>Notice of References Cited</b>	Application/Control No. 10/021,549	Applicant(s)/Patent Under Reexamination ABOUL-HOSN ET AL.	
	Examiner William H. Matthews (Howie)	Art Unit 3738	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-5,947,896	09-1999	Sherts et al.	600/229
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.